

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE IAN OSBAND,

Petitioner, No. CIV S-97-0152 WBS KJM

vs. DEATH PENALTY CASE

ROBERT L. AYERS, JR.,  
Acting Warden of San Quentin  
State Prison,

Respondent. ORDER

Pursuant to the court's January 8, 2007 Order, petitioner filed supplemental summaries of the expected testimony of witnesses Dr. Philip White, Dr. Wendy Saxon, W.J. Thomas, Richard Williams and Leon Wright. Respondent objects to the supplemental summaries of the testimony of Thomas, Williams and Wright to the extent they involve Wright's interviews with witnesses. Respondent argues petitioner has failed to summarize any non-impeaching testimony of Wright and any testimony of Thomas and Williams regarding statements they made to Wright.

It is unclear from petitioner's filings whether he intends to introduce any non-impeaching testimony from Leon Wright. Petitioner states that he will withdraw the offer to present non-impeachment testimony by Wright regarding his interviews with Thomas and Williams. Pet'r's Jan. 10, 2007 Supp. Summ. of Witness Testimony. However, respondent

1 claims petitioner may still elicit non-impeaching testimony from Wright regarding his interviews  
2 with other witnesses. In his original witness list petitioner simply described Wright's potential  
3 testimony as "regarding prior statements of other witnesses." Pet'r's Nov. 20, 2006 Witness and  
4 Exhibit Lists. The court will permit non-impeaching testimony of Wright regarding written  
5 statements of other witnesses that have been submitted in this action or that have been described  
6 in other filings herein. While respondent must have sufficient information to prepare for  
7 Wright's testimony, a specific recitation of his testimony is not necessary.

8 With respect to Williams and Thomas, again, they will be permitted to testify to  
9 the subjects described by petitioner. In other words, they may testify to conversations they had  
10 with Wright on any subject petitioner has described in his summary or supplemental summary of  
11 their testimony.

12 DATED: March 8, 2007.

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15 U.S. MAGISTRATE JUDGE  
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